

AMENDED IN SENATE MAY 18, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 357

Introduced by Senator Dunn
(Principal coauthor: Senator Perata)
(Coauthors: Senators Alquist and Cedillo)
(Coauthors: Assembly Members Klehs and Ridley-Thomas)

February 16, 2005

An act to amend Section 11106 of, and to add Sections 12313, 12314, 12315, 12315.1, ~~and 12315.2~~ *12315.2, and 12315.3* to, the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

SB 357, as amended, Dunn. Ammunition: serialized handgun ammunition.

Existing law generally regulates the sale of ammunition.

This bill would establish a program requiring serialization of handgun ammunition, as defined, to be enforced by the Department of Justice. The bill would require, commencing July 1, 2007, that handgun ammunition be serialized. The bill would specify the nature of the serialization and provide various exceptions to certain prohibitions in the bill. Manufacture, transfer, and possession, as specified, of nonserialized handgun ammunition after that date would be an offense, as specified. The bill would require ammunition vendors and manufacturers to register with the Department of Justice, as specified. The bill would require specified information in connection with handgun ammunition transactions be recorded and maintained by the vendor and manufacturer. Willful failure to comply

with certain record requirements by a vendor would be an offense. Provision of false information to a vendor by a prospective ammunition purchaser would be an offense. *The bill would impose a fee of \$.005 per bullet or round of ammunition, and a \$50 annual registration fee for handgun ammunition vendors. The Department of Justice would be authorized to adopt regulations relating to assessing and collecting those fees. The fees would be deposited in the Serialize Handgun Ammunition Fund, which would be established by the bill.* Manufacturers who fail to comply with certain registry and recordkeeping requirements would be liable for civil penalties, as specified. Persons who obliterate the serialization on assembled ammunition or bullets would be guilty of an offense.

By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11106 of the Penal Code is amended to
2 read:
3 11106. (a) In order to assist in the investigation of crime, the
4 prosecution of civil actions by city attorneys pursuant to
5 paragraph (3) of subdivision (c), the arrest and prosecution of
6 criminals, and the recovery of lost, stolen, or found property, the
7 Attorney General shall keep and properly file a complete record
8 of all copies of fingerprints, copies of licenses to carry firearms
9 issued pursuant to Section 12050, information reported to the
10 Department of Justice pursuant to Section 12053, dealers'
11 records of sales of firearms, reports provided pursuant to Section
12 12072 or 12078, forms provided pursuant to Section 12084,
13 reports provided pursuant to Section 12071 that are not dealers'
14 records of sales of firearms, and reports of stolen, lost, found,
15 pledged, or pawned property in any city or county of this state,

1 and shall, upon proper application therefor, furnish this
2 information to the officers referred to in Section 11105.

3 (b) (1) Notwithstanding subdivision (a), the Attorney General
4 shall not retain or compile any information from reports filed
5 pursuant to subdivision (a) of Section 12078 for firearms that are
6 not handguns, from forms submitted pursuant to Section 12084
7 for firearms that are not handguns, or from dealers' records of
8 sales for firearms that are not handguns. All copies of the forms
9 submitted, or any information received in electronic form,
10 pursuant to Section 12084 for firearms that are not handguns, or
11 of the dealers' records of sales for firearms that are not handguns
12 shall be destroyed within five days of the clearance by the
13 Attorney General, unless the purchaser or transferor is ineligible
14 to take possession of the firearm. All copies of the reports filed,
15 or any information received in electronic form, pursuant to
16 subdivision (a) of Section 12078 for firearms that are not
17 handguns shall be destroyed within five days of the receipt by the
18 Attorney General, unless retention is necessary for use in a
19 criminal prosecution.

20 (2) A peace officer, the Attorney General, a Department of
21 Justice employee designated by the Attorney General, or any
22 authorized local law enforcement employee shall not retain or
23 compile any information from a firearms transaction record, as
24 defined in paragraph (5) of subdivision (c) of Section 12071, for
25 firearms that are not handguns unless retention or compilation is
26 necessary for use in a criminal prosecution or in a proceeding to
27 revoke a license issued pursuant to Section 12071.

28 (3) A violation of this subdivision is a misdemeanor.

29 (c) (1) The Attorney General shall permanently keep and
30 properly file and maintain all information reported to the
31 Department of Justice pursuant to Sections 12071, 12072, 12078,
32 12082, and 12084 or any other law, as to handguns and maintain
33 a registry thereof.

34 (2) The registry shall consist of all of the following:

35 (A) The name, address, identification of, place of birth (state
36 or country), complete telephone number, occupation, sex,
37 description, and all legal names and aliases ever used by the
38 owner or person being loaned the particular handgun as listed on
39 the information provided to the department on the Dealers'
40 Record of Sale, the Law Enforcement Firearms Transfer (LEFT),

1 as defined in Section 12084, or reports made to the department
2 pursuant to Section 12078 or any other law.

3 (B) The name and address of, and other information about, any
4 person (whether a dealer or a private party) from whom the
5 owner acquired or the person being loaned the particular handgun
6 and when the firearm was acquired or loaned as listed on the
7 information provided to the department on the Dealers' Record
8 of Sale, the LEFT, or reports made to the department pursuant to
9 Section 12078 or any other law.

10 (C) Any waiting period exemption applicable to the
11 transaction which resulted in the owner of or the person being
12 loaned the particular handgun acquiring or being loaned that
13 firearm.

14 (D) The manufacturer's name if stamped on the firearm,
15 model name or number if stamped on the firearm, and, if
16 applicable, the serial number, other number (if more than one
17 serial number is stamped on the firearm), caliber, type of firearm,
18 if the firearm is new or used, barrel length, and color of the
19 firearm.

20 (3) Information in the registry referred to in this subdivision
21 shall, upon proper application therefor, be furnished to the
22 officers referred to in Section 11105, to a city attorney
23 prosecuting a civil action, solely for use in prosecuting that civil
24 action and not for any other purpose, or to the person listed in the
25 registry as the owner or person who is listed as being loaned the
26 particular handgun.

27 (4) If any person is listed in the registry as the owner of a
28 firearm through a Dealers' Record of Sale prior to 1979, and the
29 person listed in the registry requests by letter that the Attorney
30 General store and keep the record electronically, as well as in the
31 record's existing photographic, photostatic, or nonerasable
32 optically stored form, the Attorney General shall do so within
33 three working days of receipt of the request. The Attorney
34 General shall, in writing, and as soon as practicable, notify the
35 person requesting electronic storage of the record that the request
36 has been honored as required by this paragraph.

37 (d) Commencing July 1, 2007, the Department of Justice shall
38 maintain a centralized registry of all reports of handgun
39 ammunition transactions reported to the department pursuant to
40 Section 12315, in a manner prescribed by the department.

1 Information in the registry shall, upon proper application
2 therefor, be furnished to the officers listed in Section 11105, or to
3 the person listed in the registry as the owner of the particular
4 handgun ammunition.

5 SEC. 2. Section 12313 is added to the Penal Code, to read:

6 12313. (a) In an effort to better ensure public safety,
7 commencing July 1, 2007, except as provided in this chapter, all
8 handgun ammunition, as defined in Section 12314, that is
9 manufactured, imported into the state for sale or personal use,
10 kept for sale, offered or exposed for sale, sold, given, lent, or
11 possessed shall be serialized as provided in Section 12314.

12 (b) The Department of Justice shall enforce the requirements
13 of the handgun serialization program and other provisions of this
14 chapter. The department shall have authority to prescribe the
15 manner in which handgun ammunition is serialized in order to
16 comply with the requirements of Section 12314, including, but
17 not limited to, determining how ammunition that is loose,
18 packaged, in lots, series, or otherwise aggregated for purposes of
19 manufacture or sale shall be serialized with a unique identifier,
20 pursuant to Section 12314. The department shall adopt
21 regulations implementing this section no later than January 1,
22 2007.

23 (c) The department shall have authority to do the following:

24 (1) Adopt regulations relating to the assessment and collection
25 of end-user fees in an amount not to exceed one-half of one cent
26 (\$0.005) per round of ammunition or per bullet, where the
27 accumulated fee amount will not exceed the cost to pay for the
28 infrastructure, implementation, operational, enforcement, and
29 future development costs of this chapter, *adjusted for inflation as*
30 *required at the discretion of the department, but in no case more*
31 *than once annually, based upon the California Consumer Price*
32 *Index as compiled and reported by the Department of Industrial*
33 *Relations.*

34 (2) Adopt regulations relating to the implementation and
35 furtherance of a retail ammunition vendor's registry and the
36 assessment and collection of fees associated with the registration
37 program in an amount not to exceed fifty dollars (\$50) per year
38 per retail location, adjusted annually for inflation based upon the
39 California Consumer Price Index as compiled and reported by the
40 California Department of Industrial Relations, where the

1 accumulated fee amount will not exceed the cost to pay for the
2 infrastructure, implementation, operational, enforcement, and
3 future development costs of this chapter.

4 (3) Adopt or amend regulations relating to this section in an
5 effort to incorporate new technologies as they become available.

6 SEC. 3. Section 12314 is added to the Penal Code, to read:

7 12314. (a) Commencing July 1, 2007, and except as provided
8 in subdivision (g), any person who manufactures, causes to be
9 manufactured, imports into the state for sale or personal use,
10 keeps for sale, offers or exposes for sale, or who gives or lends
11 any handgun ammunition that is not serialized pursuant to this
12 section is punishable by imprisonment in a county jail not to
13 exceed one year or in the state prison.

14 (b) Commencing July 1, 2007, and except as provided in
15 subdivision (g), any person who possesses in any public place
16 any handgun ammunition that is not serialized is guilty of an
17 infraction punishable by a fine not exceeding five hundred
18 dollars (\$500), or is punishable as a misdemeanor.

19 (c) (1) For purposes of this chapter, “serialized handgun
20 ammunition” means any of the following, which are subject to
21 serialization pursuant to subdivision (d):

22 (A) Ammunition as defined in subdivision (a) of Section
23 12323.

24 (B) .22 caliber rimfire ammunition.

25 (C) Assembled handgun ammunition packaged for retail sale.

26 (D) Bullets used for reloading or handloading handgun
27 ammunition that are packaged for retail sale.

28 (2) Serialized handgun ammunition does not include blank
29 cartridges, shot-shells, or projectiles used in black powder
30 handguns.

31 (d) For purposes of this chapter, “serialized” means all of the
32 following have been met:

33 (1) The ammunition has been identified in a manner
34 prescribed by the Department of Justice so that all assembled
35 ammunition contained within a package provided for retail sale,
36 or as otherwise specified by the department, is uniquely
37 identified.

38 (2) Bullets used for reloading or handloading contained within
39 a package provided for retail sale, or as otherwise specified by
40 the department, are uniquely identified.

1 (3) Identification of the manufacturer of the items described
2 in paragraphs (1) and (2).

3 (4) Identification on the exterior of the items described in
4 paragraphs (1) and (2) in a manner that permits visual inspection
5 for the purpose of determining if the assembled ammunition or
6 bullet complies with the provisions of this section.

7 (5) Identification on the exterior of the items described in
8 paragraphs (1) and (2) in a manner that is maintained subsequent
9 to the discharge of the ammunition and subsequent to the impact
10 of the bullet, based on standards prescribed by the department.

11 (6) Identification on the exterior of every package or container
12 of serialized ammunition, as prescribed by the department, with
13 the same unique identifiers used on the assembled ammunition or
14 bullets contained within the packaging or container. No package
15 or container shall be labeled with the same unique identifiers as
16 any other package or container by the same manufacturer.

17 (e) For purposes of this chapter, every 50 pieces or fewer of
18 assembled ammunition or bullets used for reloading or
19 handloading shall constitute a separate and distinct offense.

20 (f) For purposes of this chapter, the term “public place” means
21 an area open to the public and includes streets, sidewalks,
22 bridges, alleys, plazas, parks, driveways, front yards, parking
23 lots, automobiles, whether moving or not, and buildings open to
24 the general public, including those that serve food or drink, or
25 provide entertainment, and the doorways and entrances to
26 buildings or dwellings.

27 (g) Subdivisions (a) and (b) do not apply to the following:

28 (1) The possession, for purposes of investigation or disposition
29 of any nonserialized handgun ammunition by a forensic
30 laboratory or any authorized agent or employee thereof in the
31 course and scope of his or her authorized activities.

32 (2) The possession, for purposes of investigation, evidence, or
33 disposition, of any nonserialized handgun ammunition by any
34 state, county, city, or city and county agency charged with law
35 enforcement or the administration of justice or by any authorized
36 agent or employee thereof, within the course and scope of their
37 official duties.

38 (3) The possession, for purposes of disposal, or the disposal,
39 of nonserialized handgun ammunition by an executor or
40 administrator of an estate if all of the following are met:

1 (A) The nonserialized ammunition was lawfully possessed,
2 included within the estate, and the executor or administrator
3 possesses or disposes of the nonserialized handgun ammunition
4 in a manner consistent with this chapter.

5 (B) The disposition is to a person or entity that may possess
6 the nonserialized handgun ammunition in a manner consistent
7 with this chapter and possession is otherwise lawful.

8 (C) The disposition transfers the nonserialized handgun
9 ammunition out of the state or to a law enforcement agency for
10 disposition.

11 (4) The possession of nonserialized ammunition for purposes
12 of transporting it to a law enforcement agency for disposition, if
13 possession is otherwise lawful, and if the law enforcement
14 agency has been notified prior to delivery of the ammunition.

15 (5) Possession by peace officers from other states during the
16 discharge of their official duties in California.

17 (6) Possession by members of the California National Guard
18 during the discharge of their official duties.

19 SEC. 4. Section 12315 is added to the Penal Code, to read:

20 12315. (a) (1) Commencing July 1, 2007, no person
21 engaged in the retail sale of handgun ammunition shall sell,
22 lease, or transfer serialized handgun ammunition unless he or she
23 is a registered handgun ammunition vendor as described in
24 paragraph (2). Any person that is not a registered ammunition
25 vendor and engages in the retail sale of ammunition shall be
26 guilty of an infraction or a misdemeanor.

27 (2) As used in this section, “vendor,” “ammunition vendor,” or
28 “registered handgun ammunition vendor” means any person,
29 business, or corporation that is engaged in the retail sale of
30 handgun ammunition as defined by Section 12314 and has all of
31 the following:

32 (A) Any regulatory or business license, or licenses, required
33 by local government.

34 (B) A valid seller’s permit issued by the State Board of
35 Equalization.

36 (C) Is among those recorded in the centralized ammunition
37 vendor’s registry specified in subdivision (b).

38 (b) The Department of Justice shall keep a centralized registry
39 of all persons pursuant to subparagraphs (A) to (C), inclusive, of
40 paragraph (1) of subdivision (a). The department may remove

1 from this registry any person who violates the provisions of this
2 chapter. Upon removal of a vendor from this registry, notification
3 shall be provided to local law enforcement and licensing
4 authorities in the jurisdiction where the vendor's business is
5 located.

6 (c) The Department of Justice may inspect ammunition
7 vendors to ensure compliance with this chapter. Nothing in this
8 section shall prohibit any local jurisdiction from adopting one or
9 more ordinances relating to the inspection of ammunition
10 vendors.

11 (d) Any vendor, agent or employee of the vendor that sells or
12 otherwise transfers ownership of any serialized handgun
13 ammunition shall record the following information in a format
14 prescribed by the Department of Justice:

15 (1) The date of the transaction.

16 (2) The name of the transferee.

17 (3) The transferee's driver's license number or other
18 government issued identification card number and the
19 governmental agency that issued the identification.

20 (4) In order to validate a transferee's age and ensure
21 compliance with Section 12316, the date of birth of the
22 transferee.

23 (5) The unique identifier, as described in Section 12313, of all
24 handgun ammunition or bullets transferred.

25 (6) All other information prescribed by the Department of
26 Justice.

27 (e) On the date the vendor delivers the handgun ammunition to
28 the transferee, he or she shall report the information required in
29 subdivision (d) to the Department of Justice in a manner
30 prescribed by the department.

31 (1) A copy of the records required by this section shall be
32 maintained on the premises of the vendor for a period of not less
33 than three years from the date of the recorded transfer.

34 (2) The records shall be subject to inspection at any time
35 during normal business hours by any peace officer, or by any
36 authorized employee of the Department of Justice, if the
37 inspection relates to an investigation where access to those
38 records is or may be relevant to that investigation, is seeking
39 information about persons prohibited from owning a firearm or
40 ammunition, or is engaged in ensuring compliance with the

1 Dangerous Weapons Control Law, Chapters 1 (commencing with
2 Section 12000) and 2.6 (commencing with Section 12316), or
3 any other laws pertaining to firearms.

4 (f) Any vendor or employee or agent of a vendor that willfully
5 fails to comply with, or falsifies the records required to be kept
6 by, subdivision (e) is guilty of a public offense punishable by
7 imprisonment in a county jail not exceeding one year or in the
8 state prison.

9 (g) Proof that a vendor or his or her agent or employee
10 demanded, was shown, and acted in reliance upon, bona fide
11 evidence of identity shall be a defense to any criminal
12 prosecution under this subdivision so long as reliance upon the
13 proof of identity was reasonable.

14 (h) Any person that presents false identification to a vendor
15 with the intent to avoid the recording requirements of this section
16 shall be guilty of a misdemeanor.

17 (i) Any vendor that refuses to permit a person authorized
18 under paragraph (2) of subdivision (g) to examine any record
19 prepared in accordance with this section during any inspection
20 conducted pursuant to this section shall be guilty of a
21 misdemeanor.

22 SEC. 5. Section 12315.1 is added to the Penal Code, to read:

23 12315.1. (a) Commencing July 1, 2007, no person engaged
24 in the commercial manufacture of serialized handgun
25 ammunition shall sell, loan, or transfer serialized handgun
26 ammunition, unless that person is a registered handgun
27 ammunition manufacturer as defined in paragraph (b). Violation
28 of this subdivision is punishable as a misdemeanor.

29 (b) As used in this section, the terms “manufacturer,”
30 “ammunition manufacturer,” or “registered handgun ammunition
31 manufacturer” mean any person, business, or corporation that
32 manufactures handgun ammunition within California or
33 manufacturers handgun ammunition with the intent to distribute
34 that ammunition for purposes, within California, of sale, loan, or
35 transfer.

36 (c) Manufacturers shall do all of the following:

37 (1) Register with the Department of Justice in a manner
38 prescribed by the department.

1 (2) Maintain records on the business premises for a period of
2 seven years concerning all sales, loans, and transfers of
3 ammunition, to, from, or within California.

4 (3) Comply with all other regulations concerning ammunition
5 manufacture and sale adopted by the department.

6 (d) Any manufacturer that fails to comply with the provisions
7 of this section shall be liable for a civil fine of not more than one
8 thousand dollars (\$1,000) for a first violation, not more than five
9 thousand dollars (\$5,000) for a second violation, and not more
10 than ten thousand dollars (\$10,000) for a third and subsequent
11 violation. A civil action to enforce this section may be brought
12 by a city attorney or district attorney, or the Attorney General.
13 This subdivision shall not preclude any other remedy available
14 under California law.

15 (e) The department may inspect ammunition manufacturers to
16 ensure compliance with this chapter.

17 SEC. 6. Section 12315.2 is added to the Penal Code, to read:

18 12315.2. (a) Commencing July 1, 2007, any person who
19 willfully destroys, obliterates, or otherwise renders unreadable,
20 the serialization required pursuant to Section 12314, on any
21 bullet or assembled ammunition is punishable by imprisonment
22 in a county jail, not to exceed one year, or in the state prison.

23 (b) For purposes of this section, every 50 pieces or fewer of
24 assembled ammunition or bullets used for reloading or
25 handloading shall constitute a separate and distinct offense.

26 SEC. 7. Section 12315.3 is added to the Penal Code, to read:

27 12315.3. *There is hereby established the Serialized Handgun*
28 *Ammunition Fund. The fees established in Section 12313 shall be*
29 *deposited in the Serialized Handgun Ammunition Fund. Moneys*
30 *in the fund, upon appropriation, shall be available to the*
31 *Department of Justice for infrastructure, implementation,*
32 *operational, enforcement, and future development costs of this*
33 *chapter.*

34 SEC. 7.—

35 SEC. 8. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the
40 penalty for a crime or infraction, within the meaning of Section

- 1 17556 of the Government Code, or changes the definition of a
- 2 crime within the meaning of Section 6 of Article XIII B of the
- 3 California Constitution.

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